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6 Defendants Eugene J. and Barbara Casaretto
7 As Trustees of the Eugene and Barbara Casaretto Trust, and
the Eugene J. and Barbara Casaretto Trust

8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN JURISDICTION OF CALIFORNIA**

10 ANDI MILLARD

11 Plaintiff,

12 vs.

13 CHINA CHEF RESTAURANT; ET AL.

14 Defendants.

Case No.: C07-04602 JCS

ANSWER TO COMPLAINT

15 Defendants Eugene J. and Barbara Casaretto Trustees of the Eugene J. and Barbara
16 Casaretto Trust, and the Eugene J. and Barbara Casaretto Trust, (collectively "Casaretto
17 Defendants", or as to the Trust itself "Casaretto Trust") hereby respond to the Complaint in
18 above entitled matter, as follows:

19 1. As to paragraph one of the Complaint, Casaretto Defendants admit that plaintiff
20 purports to describe the nature of the case, but on the basis of a lack of information and belief
21 sufficient to admit or deny that plaintiff is a "qualified person" as alleged, denies the same, and
22 denies the remaining allegations.

23 2. As to paragraph two of the Complaint, Casaretto Defendants admit that plaintiff
24 has brought the action based upon the statutes alleged, but denies that there is any factual basis
25 establishing any violation of the statutes alleged.

1 3. As to paragraph three of the Complaint, Casaretto Defendants admit that the
2 business is located in San Carlos, San Mateo County, California, admit that plaintiff claims that
3 the alleged violations occurred at the location of the business, but denies that there is any factual
4 basis for the allegations.
5

6 4. As to paragraph four of the Complaint, the alleged violations occurred, if at all, in
7 San Carlos, San Mateo County, California.
8

9 5. As to paragraph five of the Complaint, Casaretto Defendants (i) lack sufficient
10 information and belief so as to admit or deny whether plaintiff is a qualified person as alleged,
11 and on that basis, deny the allegation; (ii) deny that the Casaretto Defendants own or operate the
12 business as alleged; (iii) admit that the Casaretto Trust is an owner of the real property and as
13 such is a lessor; and (iv) deny the remaining allegations.
14

15 6. As to paragraph six of the Complaint, Casaretto Defendants lack sufficient
16 information and belief so as to admit or deny the allegations therein, and on that basis deny the
17 allegations.
18

19 7. As to paragraph seven of the Complaint, Casaretto Defendants admit that the
20 Casaretto Trust is an owner and lessor of the real property, and that John Tang is a lessee but
21 deny the remaining allegations.
22

23 8. As to paragraph eight of the Complaint, Casaretto Defendants admit that the
24 Casaretto Trust is an owner and lessor of the real property and that John Tang is a lessee, and
25 based on lack of sufficient information and belief as to the remaining allegations, deny the same.
26

27 9. As to paragraph nine of the Complaint, Casaretto Defendants incorporate their
28 responses to paragraphs one through eight.
29

1 10. As to paragraph ten of the Complaint, Casaretto Defendants lack sufficient
2 information or belief to know whether plaintiff is a member of the public or disabled person
3 whose rights are protected, and on that basis denies the allegations.
4

5 11. As to paragraph 11 of the Complaint, Casaretto Defendants deny that any
6 construction, alteration, repairs or additions were undertaken as referenced.
7

8 12. As to the allegations of paragraph 12 of the Complaint, Casaretto Defendants lack
9 sufficient information or belief as to admit or deny the allegations and on that basis deny the
10 allegations.
11

12 13. As to the allegations of paragraph 12 of the Complaint, Casaretto Defendants lack
13 sufficient information or belief as to admit or deny the allegations and on that basis deny the
14 allegations.
15

16 14. As to paragraph 14 of the Complaint, Casaretto Defendants deny that they were
17 under any requirement to make the Restaurant accessible as alleged.
18

19 15. As to paragraph 15 of the Complaint, Casaretto Defendants deny that they have
20 violated any law as alleged and further deny that the facilities need to be brought into any
21 compliance.
22

23 16. As to paragraph 16 of the Complaint, Casaretto Defendants deny that they have
24 violated any law as alleged and deny that plaintiff is entitled to any damages.
25

26 17. As to paragraph 17 of the Complaint, Casaretto Defendants deny that they have
27 violated any law as alleged and deny that plaintiff is entitled to any damages.
28

18. As to paragraph 18 of the Complaint, Casaretto Defendants deny the allegations.
19. As to paragraph 19 of the Complaint, Casaretto Defendants deny the allegations.
20

1 20. As to paragraph 20 of the Complaint, Casaretto Defendants deny that they have
2 done any acts entitling plaintiff to an injunction, deny that they have wrongfully excluded
3 plaintiff, and deny that plaintiff will in the future be wrongfully excluded.
4

5 21. As to paragraph 21 of the Complaint, Casaretto Defendants deny that plaintiff has
6 been damaged and deny that plaintiff is entitled to the relief requested, or any relief.
7

8 22. As to paragraph 22 of the Complaint, Casaretto Defendants neither admit nor
9 deny the legal statements contained therein, but deny that they have violated any of the statutes
10 referenced.
11

12 23. As to paragraph 23 of the Complaint, Casaretto Defendants deny the allegations.
13

14 24. As to paragraph 24 of the Complaint, Casaretto Defendants deny that plaintiff has
15 been damaged and deny that plaintiff is entitled to the relief requested or any relief.
16

17 25. As to paragraph 25 of the Complaint, Casaretto Defendants deny that plaintiff is
18 entitled to the relief requested, or any relief.
19

20 26. As to paragraph 26 of the Complaint, Casaretto Defendants incorporate their
21 response to paragraphs one through 25.
22

23 27. As to paragraph 27 of the Complaint, Casaretto Defendants neither admit or deny
24 the legal statements, but deny that they have violated the statutes referenced.
25

26 28. As to paragraph 28 of the Complaint, Casaretto Defendants deny plaintiff has
27 been damaged, and deny plaintiff is entitled to the relief requested or any relief.
28

29 29. As to paragraph 29 of the Complaint, Casaretto Defendants incorporate their
30 response to paragraphs one through 28.
31

32 30. As to paragraphs 30 through 38 of the Complaint, Casaretto Defendants neither
33 admit nor deny the legal statements, but deny that they have violated any laws or regulations,
34

1 deny that they have wrongfully acted or failed to act, deny that they have failed to provide access
2 to plaintiff and/or others as required by law, deny that they have discriminated against plaintiff
3 and/or others, and deny plaintiff has been damaged, and deny that plaintiff is entitled to the relief
4 requested or any relief.
5

6 31. As to paragraphs 39 and 40 of the Complaint, and the Prayer, Casaretto
7 Defendants lack sufficient information or belief so as to admit or deny that plaintiff is a qualified
8 person as alleged and on that basis deny the same, and deny that they have committed any acts
9 entitling plaintiff to damages of any kind or nature, or the relief requested or any relief.
10

11 Affirmative Defenses

12 1. The Complaint and every cause of action recited therein, fails to state a cause of
13 action against these answering defendants.

14 2. The Complaint and every cause of action recited therein, is or may be time barred
15 as to these answering defendants.
16

17 Wherefore, Casaretto Defendants pray:

18 1. Plaintiff take nothing by the Complaint;
19 2. The Complaint be dismissed;
20 3. For an award of attorneys fees and costs;
21 4. For such other and further relief as may be just and proper.
22

23 DATED: November 7, 2007

HARTNETT, SMITH & ASSOCIATES

24 By:
25
26

27 James H. Hartnett, Attorneys for
28 Defendants Eugene J. and Barbara Casaretto
As Trustees of the Eugene and Barbara Casaretto
Trust and the Eugene J. and Barbara Casaretto Trust

1 DEMAND FOR JURY TRIAL

2 Defendants hereby demand a jury for all claims for which a jury is permitted.

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4

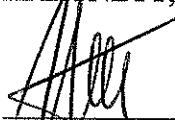
5 DATED: November 7, 2007

HARTNETT, SMITH & ASSOCIATES

6

7

By:


James H. Hartnett, Attorneys for
Defendants Eugene J. and Barbara Casaretto
As Trustees of the Eugene and Barbara Casaretto
Trust and the Eugene J. and Barbara Casaretto Trust

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1 PROOF OF SERVICE
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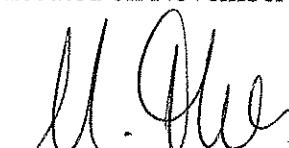
4 I, Michauxnee Olier, declare that I am employed in the County of San Mateo in the
5 State of California. I am over the age of eighteen years and not a party to the within cause. My
6 business address is 777 Marshall Street, Redwood City, California.
7
8

9 On November 7, 2007 I served the within: ANSWER on all interested parties in said
10 cause, by delivering a true copy as follows:
11

12 XXXX (By Mail) I placed a true copy thereof enclosed in a sealed envelope with first-
13 class postage thereon fully prepaid. I deposited said envelope in the United States mail at
14 Redwood City, California. Each envelope was addressed as follows:
15

16 Paul L. Rein
17 Law Offices of Paul L. Rein
18 200 Lakeside Drive, Ste. A
19 Oakland, CA 94612
20
21

22 Manuel Rivas, Jr. Esq.
23 Friedland, Rivas & Associates
24 225 Bush Street, 16th Floor
25 San Francisco, CA 94104
26
27
28

1 PROOF OF SERVICE
2
34 I, Michauxnee Olier, declare that I am employed in the County of San Mateo in the
5 State of California. I am over the age of eighteen years and not a party to the within cause. My
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1516 Paul L. Rein
17 Law Offices of Paul L. Rein
18 200 Lakeside Drive, Ste. A
19 Oakland, CA 94612
2021 Manuel Rivas, Jr. Esq.
22 Friedland, Rivas & Associates
23 225 Bush Street, 16th Floor
24 San Francisco, CA 94104
2526 I declare under penalty of perjury, under the laws of the State of California, that the
27 foregoing is true and correct, and that this declaration was executed on November 7, 2007 at
28 Redwood City, California.
Michauxnee Olier